

F-8140

Ser. No. 10/789,072

REMARKS**RECEIVED
CENTRAL FAX CENTER****DEC 04 2006**

Claims 1-11 are pending wherein claims 4-7 are withdrawn.

Claims 1-3 are rejected under 35 USC § 112, second paragraph, claims 1 and 2 are rejected as being unpatentable over Ogawa and optionally one of Hendry and Henning, and Claim 3 is rejected as being unpatentable over Ogawa, one of Hendry and Henning and the admitted prior art.

Applicant respectfully disagrees with the Examiner's assessment of Claim 3. The Examiner has identified that the art teaches rubber strips having a desired profile. However, the method of obtaining the profile in the art is substantially different. For example, mechanically altering an already extruded strip as provided in the prior art is different than forming the strip with a desired profile as recited in the pending claims. As the claim is directed to a method, the Examiner must identify references which teach the same method and not merely the same product. *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051 (Fed. Cir. 1987) ("a claim is anticipated only if each and every element as set forth in the claim" is found in the cited prior art reference). *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989) (an anticipating reference must show "the identical invention...in as complete detail as is contained in the claim").

F-8140

Scr. No. 10/789,072

While Applicant believes the claims are patentable over the art, Applicant has amended the claims to further distinguish over the cited art and place the claims in conformance with US practice.

Applicant respectfully requests a one month extension of time for responding to the Office Action. **The fee of \$120.00 for the extension is provided for in the charge authorization presented in the PTO Form 2038, Credit Card Payment form, provided herewith.**


If there is any discrepancy between the fee(s) due and the fee payment authorized in the Credit Card Payment Form PTO-2038 or the Form PTO-2038 is missing or fee payment via the Form PTO-2038 cannot be processed, the USPTO is hereby authorized to charge any fee(s) or fee(s) deficiency or credit any excess payment to Deposit Account No. 10-1250.


In light of the foregoing, the application is now believed to be in proper form for allowance of all claims and notice to that effect is earnestly solicited.

F-8140

Ser. No. 10/789,072

Respectfully submitted,
JORDAN AND HAMBURG LLP

By 
C. Bruce Hamburg
Reg. No. 22,389
Attorney for Applicants
and,

By 
T. David Bomzer
Reg. No. 48,770
Attorney for Applicants

Jordan and Hamburg LLP
122 East 42nd Street
New York, New York 10168
(212) 986-2340